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Before the
UNITED STATES COPYRIGHT ROYALTY JUDGES
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Washington, D.C.

JUL 10 2015 Copyright Royalty Board

In the Matter of)	
DETERMINATION OF RATES AND TERMS FOR DIGITAL PERFORMANCE IN SOUND RECORDINGS AND EPHEMERAL RECORDINGS (WEB IV))	Docket No. 14-CRB-0001-WR

DECLARATION AND RULE 11 CERTIFICATION OF JACKSON D. TOOF (On behalf of Sirius XM Radio Inc.)

- 1. I am counsel for Sirius XM Radio Inc. ("Sirius XM" or the "Company") in the above-captioned proceedings and I am authorized to submit this declaration and certification (the "Declaration") on behalf of Sirius XM.
- 2. I respectfully submit this Declaration pursuant to Rule 350.4(e)(1) of the Copyright Royalty Judges Rules and Procedures, 37 C.F.R. § 350.4(e)(1), and per the terms of the Copyright Royalty Judge's Order dated October 10, 2014 (the "Protective Order").
- 3. This Declaration is being submitted simultaneously with Sirius XM's Reply to Selected Portions of the Proposed Findings of Fact and Conclusions of Law of SoundExchange, Pandora, and iHeart (Public Version) (the "Reply").
- 4. I have reviewed Sirius XM's Reply. I have determined to the best of my knowledge, information, and belief that portions of the Reply contain information that the Copyright Royalty Judges have agreed during the course of this proceeding to treat as "Protected Material" as defined by the Protective Order. The Protected Material is identified in the Redaction Log and shaded in the printed copies of Sirius XM's filing.

- 5. All Protected Material identified in the Redaction Log, including written and hearing testimony and trial exhibits, was designated by the parties and accepted by the Copyright Royalty Judges as restricted during the course of the trial. Sirius XM's Redaction Log identifies each redaction contained in Sirius XM's Reply.
- 6. Pursuant to 28 U.S.C. §1746 and 37 C.F.R. § 350.4(e)(1), I hereby declare under the penalty of perjury that, to the best of my knowledge, information and belief, the foregoing is true and correct.

Dated: July 10, 2015

Respectfully submitted,

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Sirius XM Radio Inc.'s Reply to Selected Portions of the Proposed Findings of Fact and Conclusions of Law of SoundExchange, Inc., Pandora, and iHeart

Redaction Log

Location of restricted testimony	Basis for restriction
SX PFF No. 277, page 1	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 277, page 2	Citing SX PFF No. 277, page 1
Reply to SX PFF No. 277, page 2	Ex. SX 0232 ordered Restricted at 5/22/15 Tr.
	5450:20-21 (Frear)
Reply to SX PFF No. 277, page 3	Ex. SX 0232 ordered Restricted at 5/22/15 Tr.
	5450:20-21 (Frear)
Reply to SX PFF No. 320, page 3	Ex. IHM 3034 ordered Restricted at 5/21/15 Tr.
	5308:19-20 (Hansen)
Reply to SX PFF No. 323, page 5	IHM 3220 ordered restricted at 5/14/15 Tr. 3679:9-
	10 (Pedersen)
Reply to SX PFF No. 323, page 5	SXM Trial Ex. 6000 ordered Restricted at 5/22/15
	Tr. 5406:3-9 (Frear)
Reply to SX PFF No. 324, page 6	Ex. IHM 3034 ordered Restricted at 5/21/15 Tr.
	5308:19-20 (Hansen)
Reply to SX PFF No. 324, page 6	Ex. PAN 5007 ordered Restricted at 5/18/15 Tr.
	4195:8-9 (Herring); Testimony ordered restricted at
	5/18/15 Tr. 4208:16-4209:23 (Herring)
Reply to SX PFF No. 324, page 6	Testimony ordered restricted at 6/2/15 Tr. 7362:23 -
	7363:5 (Cutler)
Reply to SX PFF No. 325, page 7	Ex. IHM 3343 ordered Restricted at 5/18/15 Tr.
	5313:9-10 (Fischel); Ex. PAN 5014 ordered
	Restricted at 5/18/15 Tr. 4196:17-20 (Herring)
Reply to SX PFF No. 325, page 7	Testimony order Restricted at 6/2/15 Tr. 7362:18-
	7363:3 (Cutler)
Reply to SX PFF No. 325, page 7	See supra, Reply to SX PFF No. 324
SX PFF No. 326, page 7	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 326, page 8	Ex. IHM 3343 ordered Restricted at 5/18/15 Tr.
MANAGE - 10-10-10-10-10-10-10-10-10-10-10-10-10-1	5313:9-10 (Fischel)
SX PFF No. 327, page 8	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
D. 1 . GY/DDDAY 005	with Redaction Log.
Reply to SX PFF No. 327, page 8	Testimony order Restricted at 6/2/15 Tr. 7362:23 -
CXX DDD X	7363:5 (Cutler)
SX PFF No. 328, page 8	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.

Location of restricted testimony	Basis for restriction
Reply to SX PFF No. 328, page 9	See supra, Reply to SX PFF No. 324
SX PFF No. 329, page 9	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 330, page 9	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 330, page 10	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 331, page 10	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 331, page 10	Testimony ordered restricted at 5/18/15 Tr.
	4208:16-4209:23 (Herring)
Reply to SX PFF No. 331, page 11	Testimony ordered restricted at 5/18/15 Tr.
	4208:16-4209:23 (Herring)
Reply to SX PFF No. 342, page 19	Ex. PAN 5046 ordered Restricted on 4/20/2015 at
	1120:25-1121:1 (Larson);Ex. PAN 5048 ordered
	Restricted on 4/20/2015 at 1125:4-5 (Larson)
Reply to SX PFF No. 342, page 19	Ex. PAN 5046 ordered Restricted on 4/20/2015 at
	1120:25-1121:1 (Larson); Testimony ordered
	Restricted at 4/30/15 Tr. 1121:9-13 (Harrison)
Reply to SX PFF No. 342, page 19	Ex. PAN 5046 ordered Restricted on 4/20/2015 at
	1120:25-1121:1 (Larson); Testimony ordered
	Restricted at 4/30/15 Tr. 1123:7-13 (Harrison)
Reply to SX PFF No. 342, page 19	Testimony ordered Restricted at 4/30/15 Tr.
	1123:19-20 (Harrison)
Reply to SX PFF No. 342, page 19	Testimony ordered Restricted at 4/30/15 Tr.
	1123:25-1124:7 (Harrison)
SX PFF No. 344, page 21	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
West Control of the C	with Redaction Log.
SX PFF No. 397, page 21	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 397, page 21	Testimony ordered Restricted at 5/6/15 Tr.
	2226:10-21 (Rubinfeld)
Reply to SX PFF No. 397, page 22	Testimonies ordered Restricted at 5/8/15 Tr.
	2736:18-2737:7 (Shapiro); 5/15/15 Tr. 4142:7-12
	(Lichtman); 5/19/15 Tr. 4611:1-4 (Shapiro); Ex. SX
	0017 ordered Restricted at 5/6/15 Tr. 2222:20-23
	(Rubinfeld)
Reply to SX PFF No. 397, page 22	Testimony ordered Restricted at 5/6/15 Tr. 2231:7-
	12 (Rubinfeld)

Location of restricted testimony	Basis for restriction
Reply to SX PFF No. 397, page 22	Testimony ordered Restricted at 5/6/15 Tr.
	2223:20-21 (Rubinfeld)
SX PFF No. 398, page 23	Redacted by SoundExchange in SX PFF. See Rule
7. 0	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 398, page 23	Testimony ordered Restricted at 5/6/15 Tr.
,,,,,	2223:20-21 (Rubinfeld)
Reply to SX PFF No. 426, page 24	Ex. IHM 3343 ordered Restricted at 5/18/15 Tr.
ittepry to sixxix iter 120, page 21	5313:9-10 (Fischel); Ex. PAN 5014 ordered
	Restricted at 5/18/15 Tr. 4196:17-20 (Herring)
Reply to SX PFF No. 426, page 24	Testimony ordered Restricted at 6/2/15 Tr.
Roply to 520111 140. 420, page 24	7362:18-7363:3 (Cutler)
Reply to SX PFF No. 426, page 24	Testimony ordered Restricted at 6/2/15 Tr.
Reply to SX FFF No. 420, page 24	7362:18-7363:3 (Cutler)
CV DEE No. 427 mags 24	Redacted by SoundExchange in SX PFF. See Rule
SX PFF No. 427, page 24	
	11 Declaration of Kelly Klaus dated June 24, 2015,
D 1 . GX DEPAY 405	with Redaction Log.
Reply to SX PFF No. 427, page 25	Ex. NAB 4015 ordered Restricted at 5/6/15 Tr.
	2793:9-10 (Katz)
SX PFF No. 428, page 25	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log
Reply to SX PFF No. 428, page 25	Ex. SX 0017 ordered Restricted at 5/6/15 Tr.
	2222:20-23 (Rubinfeld)
Reply to SX PFF No. 428, page 25	Testimony ordered Restricted at 5/6/15 Tr.
	2087:22-2088:14 (Rubinfeld)
SX PFF No. 429, page 26	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 430, page 26	Redacted by SoundExchange in SX PFF. See Rule
· - -	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 430, page 26	Testimony ordered Restricted at 6/2/15 Tr. 7362:23
71 0	-7363:5 (Cutler)
Reply to SX PFF No. 430, page 27	Ex. IHM 3435 ordered Restricted at 5/15/15 Tr.
1.0 p. 1	4022:23-24 (Lichtman)
Reply to SX PFF No. 431, page 27	Ex. IHM 3220 ordered restricted at 5/14/15 Tr.
11-Faj 00 21222 110. 101, pago 21	3679:9-10 (Pedersen)
Reply to SX PFF No. 431, page 28	Ex. IHM 3220 ordered restricted at 5/14/15 Tr.
100piy to 52x 1 1 1 110. 451, page 20	3679:9-10 (Pedersen)
SY DEE No. 432, page 29	Redacted by SoundExchange in SX PFF. See Rule
SX PFF No. 432, page 28	
	11 Declaration of Kelly Klaus dated June 24, 2015,
D - 1 - 4 - 0X DEE N. 422	with Redaction Log.
Reply to SX PFF No. 432, page 28	Testimony ordered Restricted at 5/7/15 Tr.
	2518:23-2520:25 (Wilcox)

Location of restricted testimony	Basis for restriction
SX PFF No. 433, page 28	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 433, page 29	Ex. PAN 5022 ordered Restricted at 5/19/15 Tr.
71 0	4549:22-23(Shapiro)
Reply to SX PFF No. 433, page 29	Ex. PAN 5007 ordered Restricted at 5/18/15 Tr.
recept to see it it it is too, page 25	4195:8-9 (Herring); Testimony ordered Restricted
	5/18/15 Tr. 4208:16-4209:23 (Herring)
Reply to SX PFF No. 445, page 34	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
10pty to 52111 110. 415, page 51	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 447, page 35	Testimony ordered Restricted at 5/11/15 Tr.
Reply to 520111 110. 447, page 55	2825:6-16 (Katz)
Reply to SX PFF No. 447, page 35	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
Repry to 52(111 110: 447, page 55	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 448, page 35	Ex. NAB 4015 ordered Restricted at 5/6/15 Tr.
Repry to 52 1 Tr. No. 446, page 55	2793:9-10 (Katz)
Reply to SX PFF No. 448, page 36	Ex. NAB 4015 ordered Restricted at 5/6/15 Tr.
Kepty to SX FFF No. 446, page 30	2793:9-10 (Katz)
Donly to CV DEE No. 449, page 26	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
Reply to SX PFF No. 448, page 36	
D - 1- 4- GX DEE N - 440 26	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 449, page 36	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld); Ex. NAB 4015 ordered
D 1 . CYCDDD I Acc	Restricted at 5/6/15 Tr. 2793:9-10 (Katz)
Reply to SX PFF No. 451, page 37	Ex. PAN 5289 ordered Restricted at 5/4/15 Tr.
	1683:12-13(Blackburn)
SX PFF No. 454, page 39	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 454, page 39	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 454, page 40	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
SX PFF No. 455, page 40	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 456, page 40	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 456, page 41	Redacted by SoundExchange in SX PFF. See Rule
· • •	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 457, page 41	Redacted by SoundExchange in SX PFF. See Rule
, i C	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.

Location of restricted testimony	Basis for restriction
Reply to SX PFF No. 457, page 42	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
SX PFF No. 458, page 42	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 458, page 42	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
71 0	1839:18-19 (Rubinfeld)
SX PFF No. 461, page 44	Redacted by SoundExchange in SX PFF. See Rule
71 5	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 461, page 44	Testimony ordered Restricted at 5/5/15 Tr.
	1968:16-1969:4 (Rubinfeld)
Reply to SX PFF No. 461, page 44	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 461, page 44	Testimony ordered Restricted at 5/11/15 Tr.
	2825:17-2827:8 (Katz)
SX PFF No.462, page 44	Redacted by SoundExchange in SX PFF. See Rule
	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No.462, page 45	Redacted by SoundExchange in SX PFF. See Rule
21111 1.01.02, page 15	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 462, page 45	Testimony ordered Restricted at 5/11/15 Tr.
110677 10 211111 1101 102, puge 10	2823:23-2825:19 (Katz); Ex. PAN 5025 ordered
	Restricted at 5/5/15 Tr. 1954:12-13 (Rubinfeld)
Reply to SX PFF No. 462, page 45	Ex. SX 0017 ordered Restricted at 5/6/15 Tr.
1.00, 102, page 10	2222:20-23 (Rubinfeld); Testimonies ordered
	Restricted at 5/8/15 Tr. 2736:18-2737:7 (Shapiro);
	5/15/15 Tr. 4142:7-12 (Lichtman); 5/19/15 Tr.
	4611:1-4 (Shapiro)
Reply to SX PFF No. 465, page 47	Testimony ordered Restricted at 5/11/15 Tr.
,, p.s., p.s., p.s., p.s.	2825:6-16 (Katz); Ex. PAN 5025 ordered Restricted
	at 5/5/15 Tr. 1954:12-13 (Rubinfeld)
Reply to SX PFF No. 465, page 47	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
Reply to SX PFF No. 469, page 51	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
and and an analysis of the state of the stat	1839:18-19 (Rubinfeld)
SX PFF No. 472, page 52	Redacted by SoundExchange in SX PFF. See Rule
, , , , , , , , , , , , , , , , , , ,	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
Reply to SX PFF No. 472, page 52	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr.
	1839:18-19 (Rubinfeld)
SX PFF No. 473, page 53	Redacted by SoundExchange in SX PFF. See Rule
52111 110. 175, page 55	11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
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Location of restricted testimony	Basis for restriction
SX PFF No. 474, page 53	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015,
	with Redaction Log.
SX PFF No. 475, page 53	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
SX PFF No. 476, page 53	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
SX PFF No. 477, page 54	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
SX PFF No. 478, page 54	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
SX PFF No. 479, page 54	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
Reply to SX PFF No. 1077, page 59	SXM Trial Ex. 6000 ordered Restricted at 5/22/15 Tr. 5406:3-9 (Frear)
SX PFF No. 1078, page 60	Redacted by SoundExchange in SX PFF. See Rule 11 Declaration of Kelly Klaus dated June 24, 2015, with Redaction Log.
Reply to SX PFF No. 1079, page 61	Ex. NAB 4129 ordered Restricted at 5/5/15 Tr. 1839:18-19 (Rubinfeld)
Reply to SX PFF No. 1081, page 63	Testimony ordered Restricted at 5/6/15 Tr. 2231:7-12 (Rubinfeld)
Reply to SX PFF No. 1081, page 63	Ex. SX 0017 ordered Restricted at 5/6/15 Tr. 2222:20-23 (Rubinfeld); Testimonies ordered Restricted at 5/8/15 Tr. 2736:18-2737:7 (Shapiro); 5/15/15 Tr. 4142:7-12 (Lichtman); 5/19/15 Tr. 4611:1-4 (Shapiro)
Reply to Pandora PCL No. 203, page 98	Ex. PAN 5007 ordered Restricted at 5/18/15 Tr. 4195:8-9 (Herring); Testimony ordered Restricted at 5/18/15 Tr. 4208:16-4209:23 (Herring)

Copyright Royalty Board

Before the UNITED STATES COPYRIGHT ROYALTY JUDGES THE LIBRARY OF CONGRESS Washington, D.C.

In the Matter of

DETERMINATION OF RATES AND TERMS FOR DIGITAL PERFORMANCE IN SOUND RECORDINGS AND EPHEMERAL **RECORDINGS (WEB IV)**

Docket No. 14-CRB-0001-WR

CERTIFICATE OF SERVICE

I, Jackson D. Toof, hereby certify that a copy of the foregoing Sirius XM Radio Inc.'s Reply to Selected Portions of the Proposed Findings of Fact and Conclusions of Law of SoundExchange, Pandora, and iHeart and the accompanying Declaration and Rule 11 Certification of Jackson D. Toof has been served electronically by agreement of the parties on this 10th day of July, 2015 upon the following parties:

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